

GRAY L FLOOR AMENDMENT
SENATE AMENDMENTS TO S.B. 1184
(Reference to Gray L floor amendment)

1 Page 1, between lines 1 and 2, insert:

2 “‘Section 1. Section 22-371, Arizona Revised Statutes, is amended to
3 read:

4 22-371. Right of appeal; procedure for taking appeal; transcript

5 A. The defendant in a criminal action may appeal to the superior court
6 from the final judgment of a justice or municipal court.

7 B. THE APPELLANT IN A HEARING REQUESTED PURSUANT TO SECTION 28-677 MAY
8 APPEAL TO THE SUPERIOR COURT FROM THE FINAL ORDER OF A JUSTICE COURT.

9 ~~B.~~ C. The procedure for appeals from a justice or municipal court to
10 the superior court shall be as provided by rules ~~promulgated~~ ADOPTED by the
11 supreme court.

12 ~~C.~~ D. In a trial in a justice or municipal court, a transcript of the
13 proceedings by a court reporter may be ordered in the sole discretion of the
14 court.

15 ~~D.~~ E. A defendant may not appeal from a judgment or sentence that is
16 entered pursuant to a plea agreement or from an admission to a probation
17 violation.

18 Sec. 2. Title 28, chapter 3, article 4, Arizona Revised Statutes, is
19 amended by adding section 28-677, to read:

20 28-677. Administrative license suspension; traffic accident involving
21 death or serious physical injury; driving under the
22 influence; report; hearing; definition

23 A. IF A LAW ENFORCEMENT OFFICER HAS PROBABLE CAUSE TO BELIEVE THAT A
24 PERSON WHO OPERATED A MOTOR VEHICLE IN THIS STATE CAUSED A TRAFFIC ACCIDENT
25 RESULTING IN DEATH OR SERIOUS PHYSICAL INJURY AND THAT AT THE TIME OF THE
26 ACCIDENT THE PERSON WAS UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS,
27 THE OFFICER SHALL SERVE AN ORDER OF SUSPENSION ON BEHALF OF THE DEPARTMENT.
28 THE ORDER OF SUSPENSION:

29 1. IS EFFECTIVE SEVEN DAYS AFTER THE DATE IT IS SERVED.

30 2. SHALL REQUIRE THE IMMEDIATE SURRENDER OF ANY LICENSE OR PERMIT TO
31 DRIVE THAT IS ISSUED BY THIS STATE AND THAT IS IN POSSESSION OF THE PERSON.

1 3. SHALL CONTAIN INFORMATION CONCERNING THE RIGHT TO A HEARING.

2 4. SHALL BE ACCOMPANIED BY PRINTED FORMS THAT ARE READY TO MAIL TO THE
3 DEPARTMENT AND THAT THE PERSON MAY FILL OUT AND SIGN TO INDICATE THE PERSON'S
4 DESIRE FOR A HEARING.

5 5. SHALL BE ENTERED ON THE DEPARTMENT'S RECORDS ON RECEIPT OF THE
6 REPORT BY THE OFFICER AND A COPY OF THE ORDER OF SUSPENSION.

7 B. IF THE LICENSE OR PERMIT IS NOT SURRENDERED PURSUANT TO SUBSECTION
8 A OF THIS SECTION, THE OFFICER SHALL STATE THE REASON FOR THE NONSURRENDER.
9 IF A VALID LICENSE OR PERMIT IS SURRENDERED, THE OFFICER SHALL ISSUE A
10 TEMPORARY DRIVING PERMIT THAT IS VALID FOR SEVEN DAYS. THE OFFICER SHALL
11 FORWARD A COPY OF THE COMPLETED ORDER OF SUSPENSION, A COPY OF ANY COMPLETED
12 TEMPORARY PERMIT AND ANY DRIVER LICENSE OR PERMIT TAKEN INTO POSSESSION UNDER
13 THIS SECTION TO THE DEPARTMENT WITHIN FIVE DAYS AFTER THE ISSUANCE OF THE
14 ORDER OF SUSPENSION.

15 C. THE DEPARTMENT SHALL SUSPEND THE AFFECTED PERSON'S LICENSE OR
16 PERMIT TO DRIVE OR RIGHT TO APPLY FOR A LICENSE OR PERMIT OR ANY NONRESIDENT
17 OPERATING PRIVILEGE FOR NOT LESS THAN NINETY DAYS.

18 D. THE PERSON MAY SUBMIT A WRITTEN REQUEST TO THE DEPARTMENT FOR A
19 HEARING TO CONTEST AN ORDER OF SUSPENSION ISSUED PURSUANT TO THIS SECTION.
20 THE REQUEST MUST BE RECEIVED WITHIN SEVEN DAYS AFTER THE ORDER OF SUSPENSION
21 IS SERVED. THE DEPARTMENT SHALL TRANSMIT THE REQUEST FOR A HEARING AND THE
22 ORDER OF SUSPENSION FILED PURSUANT TO SUBSECTION B OF THIS SECTION TO THE
23 JUSTICE COURT OF THE PRECINCT IN WHICH THE ACCIDENT OCCURRED ON THE NEXT
24 BUSINESS DAY AFTER THE DEPARTMENT RECEIVES THE REQUEST. THE JUSTICE COURT
25 SHALL CONDUCT THE HEARING WITHIN FIFTEEN DAYS AFTER RECEIPT OF THE REQUEST
26 FOR A HEARING AND ORDER OF SUSPENSION.

27 E. A TIMELY REQUEST FOR A HEARING STAYS THE SUSPENSION UNTIL A HEARING
28 IS HELD, EXCEPT THAT THE DEPARTMENT SHALL NOT RETURN ANY SURRENDERED LICENSE
29 OR PERMIT TO THE PERSON BUT MAY ISSUE TEMPORARY PERMITS TO DRIVE THAT EXPIRE
30 NOT LATER THAN WHEN THE COURT MAKES ITS FINAL DETERMINATION. IF THE PERSON
31 IS A RESIDENT WITHOUT A LICENSE OR PERMIT OR HAS AN EXPIRED LICENSE OR
32 PERMIT, THE DEPARTMENT MAY ALLOW THE PERSON TO APPLY FOR A LICENSE OR PERMIT.

1 IF THE DEPARTMENT DETERMINES THAT THE PERSON IS OTHERWISE ENTITLED TO THE
2 LICENSE OR PERMIT, THE DEPARTMENT SHALL ISSUE, BUT RETAIN, THE LICENSE OR
3 PERMIT, SUBJECT TO THIS SECTION.

4 F. THE ATTORNEY FOR THE JURISDICTION OF THE LAW ENFORCEMENT AGENCY
5 THAT SUBMITTED THE ORDER OF SUSPENSION SHALL REPRESENT THE AGENCY AT THE
6 HEARING. THE SCOPE OF A HEARING UNDER SUBSECTION D OF THIS SECTION SHALL
7 INCLUDE ONLY THE FOLLOWING ISSUES:

8 1. WHETHER THE OFFICER HAD PROBABLE CAUSE TO BELIEVE THAT THE PERSON
9 WHO WAS OPERATING THE MOTOR VEHICLE CAUSED AN ACCIDENT RESULTING IN DEATH OR
10 SERIOUS PHYSICAL INJURY.

11 2. WHETHER THE OFFICER HAD PROBABLE CAUSE TO BELIEVE THAT THE PERSON
12 WAS UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS.

13 G. IF THE COURT UPHOLDS THE DEPARTMENT'S SUSPENSION OF THE AFFECTED
14 PERSON'S PRIVILEGE TO OPERATE A MOTOR VEHICLE, THE SUSPENSION SHALL CONTINUE
15 IN EFFECT FOR NINETY CONSECUTIVE DAYS FROM THE ISSUANCE OF THE COURT'S
16 DETERMINATION. THE COURT SHALL TRANSMIT THE COURT'S FINDINGS TO THE
17 DEPARTMENT.

18 H. THE DEPARTMENT AND THE SUPREME COURT MAY ADOPT RULES TO IMPLEMENT
19 THIS SECTION.

20 I. FOR THE PURPOSES OF THIS SECTION, "SERIOUS PHYSICAL INJURY" HAS THE
21 SAME MEANING PRESCRIBED IN SECTION 13-105."

22 Renumber to conform

23 Page 1, line 2, strike the quotation marks

24 Page 5, line 24, strike "16." insert "18."

25 Amend title to conform

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